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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003956

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TAGS: [PGOV](#) [PREL](#) [IZ](#)
SUBJECT: VP ABDEL MAHDI: ARTICLE 140 NEEDS POLITICAL
SETTLEMENT, NOT A REFERENDUM

REF: BAGHDAD 3924 AND PREVIOUS

Classified By: Senior Advisor David Pearce for reasons 1.4 (b) and (d)

¶1. (C) Summary: Iraq Vice President Adel Abdel Mahdi (ISCI, Shia) told Senior Advisor December 4 that it was important to resolve the territorial issues involved in Article 140 of the Constitution, but a referendum focused on Kirkuk was not the way to go. Insisting on this route, he thought, could be destabilizing. Abdel Mahdi spoke instead about the need for an overall political settlement that would embrace not only Kirkuk but other disputed territories, both in the north and in the south. He outlined three principles by which a resolution could be sought, including: using the December 2005 election results as a way to help determine the internal boundaries; referring to pre-Saddam era political boundary changes in some cases; and keeping an eye on the big picture and avoiding the "small stuff" as a political deal is negotiated. He was less clear on the immediate way forward, noting that the Article 140 high committee was expected to present recommendations for boundary changes to the Presidency Council "soon." But he declined to discuss a possible United Nations role in detail, noting only that he would meet with UN SRSG Staffan De Mistura on December 5. End Summary.

¶2. (C) Abdel Mahdi asked Senior Advisor about his thoughts on Article 140. Senior Advisor said it is a difficult issue but it is also an essential element of national political accommodation. It would be dangerous to leave it alone. Sunni-Arab tensions are rising, creating fertile ground for the insurgency. Even if the issue is not resolved entirely soon, it is vital to get a transparent, fair and agreed process in place as soon as possible. In response to Abdel Mahdi's question about Kurdish flexibility on Article 140, Senior Advisor said the Kurds are angry about the delays, but appear open to ideas although they do not want to show their hand yet. The Kurds are suspicious of the United Nations and wary of its potential role. Abdel Mahdi agreed that it was a very difficult issue, and noted that people sometimes forget that it actually has two aspects: resolution of Kirkuk, and of other disputed territories.

A Referendum Would be Dangerous

¶3. (C) Practically, he said, the referendum cannot be done by the end of the year and in fact it was difficult to imagine one in any circumstances. The modalities are not agreed, it would be difficult to structure given that different disputed areas are in play, and to force the issue prematurely could lead to civil war. He wondered how it would be conducted in disputed areas, besides Kirkuk, like Ninewa and Diyala provinces. If a referendum were conducted at the provincial level, the Kurds would get Kirkuk, but not Ninewa or Diyala. If a referendum were conducted at the district level, the Kurds would get some areas in Ninewa and Diyala, but not

Kirkuk province as a whole. Abdel Mahdi said a referendum could not be held using different modalities for different places, e.g. on the provincial level for Kirkuk and on the district level for other disputed territories. The Constitution did not clarify these issues. Abdel Mahdi concluded, "I don't think we can have one at all."

2005 Election Results Might Be the Way to Go

¶4. (C) The vice president opined that the results of the December 2005 elections could provide a way to determine the internal boundaries. The elections had a high turnout; we know that Iraqis voted along ethnic lines, he said. This is very important, because we know where the lines are exactly, which areas are majority Kurdish and which areas are majority Arab and other. Abdel Mahdi presented a report showing district by district election results by ethnicity. He said he believed a 2/3 percentage was an internationally accepted standard for a clear majority; this could replace a referendum as a means for territorial adjustments. One and a half years ago, he said, he talked to the United Nations about this idea. The UN had its own data set but declined to share it. But when the UN would not provide its data, his office developed its own from the district-by-district voting patterns.

Political Deal on Three Principles

¶5. (C) There should be a political deal on 140, Abdel Mahdi said -- a give and take between the sides. That means no one

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gets their first choice, Senior Advisor put in. Abdel Mahdi agreed, said he knew the Kurds well, and thought the Kurds would accept such an approach. For example, they could have the districts of Khanaqeen and maybe Mandali in Diyala province, but they could not have Rabiya port of entry or the Tal Afar or Sinjar districts in Ninewa province. Even though Sinjar voted for the Kurds, if they took it, you would block the Arabs' link to Rabiya, he asserted.

¶6. (C) Abdel Mahdi said a political deal could be based on three principles: 1) using the 2005 election results; 2) referring to pre-Saddam era changes to political boundary changes, including in areas such as Karbala, Najaf and Anbar; and 3) avoiding concentrating on the "small stuff," have representatives of each community make a political deal using the big picture.

Modalities/Next Steps

¶7. (C) Senior Advisor, noting the danger of delay, asked whether such an approach would not take a long time. The Constitution provides for the Presidency Council to attempt a resolution. If they cannot, it goes to a neutral arbitrator or to the UN. Abdel Mahdi responded that it need not take a long time. The Article 140 high committee would present its recommendations to the Presidency Council "soon." The Presidency Council would then need to define the dispute and come up with ideas on how to solve it, he said. Abdel Mahdi declined to discuss the UN option positively or negatively, except to say he hoped "we can solve it as Iraqis" and to note he would be meeting with UN SRSG Staffan De Mistura on December 5. Abdel Mahdi said that Article 140 high committee chairman (and Minister of Science and Technology) Raid Fahmi had told him the boundary recommendations in the north would only cover Kirkuk province. Senior Advisor asked what would happen if Ninewa province were not a part of these recommendations, since Abdel Mahdi himself had said it was one of the areas that needed to be addressed. The vice

president said the Presidency Council would turn the matter back to the Committee and to their own advisors for further discussion.

18. (C) Abdel Mahdi asserted that "we will try to come to a common understanding" between the top political leadership and among all the communities not represented in the Presidency Council. He said the United States could play an important role in this. Abdel Mahdi said he thought the Kurdish leadership could be flexible even though their public is inflamed about this issue. President Talabani in the 1990s during election campaigns referred to Kirkuk as the Kurds' "Jerusalem," but he would not say it now, Abdel Mahdi opined. Getting the Kurdish public to understand and accept a political understanding among the leadership would be an obstacle.

Comment

19. (C) Like Barham Saleh (reftel), Abdel Mahdi was focused on a national political "deal" on various territorial issues, endorsed by the political leadership, rather than a referendum focused on Kirkuk alone as a settlement mechanism.

While he said it would have to be an Iraqi decision, he also intimated that US help would be welcome in getting the Iraqis, and especially the Kurds, to yes. He carefully avoided direct comment on a UN role, but did not rule it out either. He explicitly mentioned the 2005 elections results as a basis for sorting out territorial issues, a methodology which, as we understand it, lies at the heart of the UN's thinking as well.

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